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THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

In re K.P., a Person Coming under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

K.P.,

Defendant and Appellant.

A134131

(Contra Costa County
Super. Ct. No. J11-01427)

Appellant K.P. was declared a ward of the court after admitting a charge of grand theft. On appeal, he contends the juvenile court abused its discretion by placing him in a nine-month program at a juvenile ranch facility. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Late in the evening on October 2, 2011, Simon Rich was working on his laptop at a Starbucks in San Francisco. Two juvenile males rushed into the store and started punching Rich in the face and head. One of the boys, identified as appellant, then 16 years old, grabbed Rich's laptop and ran out. Rich was transported to the hospital, where he was diagnosed with head contusions.

Appellant admitted taking the laptop but denied hitting the victim or planning the robbery in advance. He claimed he overheard a boy he recognized talking with some other people outside Starbucks about assaulting a person inside and "[g]etting

something.” He said that he took advantage of the situation and grabbed the laptop after one of the boys punched Rich.

The San Francisco County District Attorney filed a juvenile wardship petition charging appellant with second degree robbery. (Pen. Code, § 211, 212.5, subd. (c).) Pursuant to a negotiated disposition, the district attorney agreed to reduce the second degree robbery charge to one count of grand theft. (Pen. Code, § 487, subd. (c).) Appellant admitted the charge, and the case was transferred for disposition to Contra Costa County, where appellant’s mother resided.

At a contested dispositional hearing, appellant’s counsel asked the court to place appellant on juvenile electronic monitoring (JEM) probation so that appellant could remain in the JUMA Ventures program (JUMA) in San Francisco. Alternatively, appellant’s counsel asked the court to place appellant in a “lesser Ranch program,” such as the Byron Boys Ranch for a six-month program. JUMA was described as a “college access program” that offers academic counseling, employment opportunities, and “financial literacy.” Appellant had been participating in the JUMA program since May 2011. Three representatives from JUMA spoke at the dispositional hearing and urged the court to allow appellant to remain enrolled in the program.

The dispositional report prepared by the probation department questioned the veracity of appellant’s claim that he did not know the other people involved in the crime and that he did not conspire with them to commit the robbery. The report also noted that the police had been called to appellant’s home in September 2010 because he was causing a disturbance. At the time, appellant’s mother believed he was selling drugs because she had found marijuana and ecstasy under his bed and had discovered marijuana plants in his room three months before. Appellant was issued a citation for possessing marijuana and a controlled substance for sale, although no charges were ultimately filed by the district attorney. In an interview with the probation officer, appellant stated he was using marijuana on a daily basis at the time of his arrest for the robbery offense. He also admitted trying ecstasy and claimed he was storing the ecstasy under his bed for a friend. The probation officer noted that appellant had enrolled in the Life Learning

Academy and was involved with JUMA, but that those services had been in place before appellant committed the robbery. The probation officer described the offense as “serious in nature” and recommended a nine-month commitment at the Orin Allen Youth Rehabilitation Facility (OAYRF), where appellant would be in “a structured environment focusing on behavior modification.”

At the conclusion of the dispositional hearing, the court adjudged appellant a ward of the court and ordered him committed to a nine-month ranch program at OAYRF, plus an additional 90-day conditional release period. The court characterized appellant’s story about the robbery incident as “ridiculous,” describing it as “worrisome” both because appellant was not accepting responsibility for his actions and because he was shielding the other people who were involved in the crime. The court also expressed concern about appellant’s drug possession and use, observing that he had been “using or dealing.” The court stated, “[T]here’s something going on with the drugs and I don’t know what that is. I don’t have enough information. I cannot look inside your head.” The court concluded appellant needed something “more intense” than JUMA and that a ranch commitment would provide the necessary services and structure. Appellant filed a timely appeal from the dispositional order.

DISCUSSION

Appellant claims the juvenile court abused its discretion by placing him in a nine-month ranch program at OAYRF. He argues the court erred by removing him from his home, by not allowing him to continue in the JUMA program, and by failing to make the requisite findings under Welfare and Institutions Code section 726, subdivision (a). As we explain, the court did not abuse its discretion by placing appellant at a ranch facility.

“A juvenile court’s commitment order may be reversed on appeal only upon a showing the court abused its discretion. [Citation.]” (*In re Robert H.* (2002) 96 Cal.App.4th 1317, 1329-1330.) “‘[D]iscretion is abused whenever the court exceeds the bounds of reason, all of the circumstances being considered.’ [Citation.]” (*In re Carl N.* (2008) 160 Cal.App.4th 423, 432.) “An appellate court will not lightly substitute its decision for that rendered by the juvenile court. We must indulge all reasonable

inferences to support the decision of the juvenile court and will not disturb its findings when there is substantial evidence to support them. [Citations.] In determining whether there was substantial evidence to support the commitment, we examine the record presented at the disposition hearing in light of the purposes of the Juvenile Court Law. [Citations.]” (*In re Michael D.* (1987) 188 Cal.App.3d 1392, 1395.) A court does not necessarily abuse its discretion by ordering a more restrictive placement before other, less restrictive options have been pursued. (*In re Eddie M.* (2003) 31 Cal.4th 480, 507.)

As an initial matter, there is no merit to appellant’s contention that the court failed to make the requisite findings under Welfare and Institutions Code section 726 to support an order removing him from his parents’ custody. At the conclusion of the dispositional hearing, the juvenile court stated, “I’m finding that the minor’s welfare requires that custody be removed from the parents or guardians per [Welfare and Institutions Code] section 726(a)(3).” Subdivision (a) of Welfare and Institutions Code section 726 provides that a ward shall not be taken from the physical custody of a parent or guardian unless the court makes at least one of the factual findings enumerated in that subdivision, one of which is “[t]hat the welfare of the minor requires that custody be taken from the minor’s parent or guardian.” (Welf. & Inst. Code, § 726, subd. (a)(3).) The juvenile court here made the requisite statutory finding under Welfare and Institutions Code section 726. Nothing further was required. (See *In re Kenneth H.* (1983) 33 Cal.3d 616, 621.)

There is also no merit to appellant’s assertion the juvenile court erred by considering his prior uncharged offense of possessing ecstasy and marijuana. Appellant claims the court admitted it “did not have sufficient information” regarding the uncharged drug offenses to properly factor into its commitment decision. We first note that appellant forfeited any objection to the court’s reliance on his prior uncharged drug offenses by failing to object at the dispositional hearing. (Cf. *People v. Scott* (1994) 9 Cal.4th 331, 352 [failure to object to stated reasons for sentencing choices amounts to forfeiture of claim on appeal].) Even if appellant had objected, the objection would properly have been overruled. Hearsay evidence that would be inadmissible at a

jurisdictional hearing *is* admissible at a dispositional hearing for purposes of assessing the minor's best interests. (*In re Vincent G.* (2008) 162 Cal.App.4th 238, 243.) The juvenile court must consider the broadest range of relevant and material evidence at disposition in order to determine how best to rehabilitate the minor and to afford him or her adequate care. (*In re Robert H.*, *supra*, 96 Cal.App.4th at p. 1329; see also Welf. & Inst. Code, § 725.5.) In any event, appellant did not dispute the contention that he possessed and used drugs. Although the court may have had some question about whether appellant was dealing drugs or merely using them, the court properly took into account appellant's admitted possession and use of drugs.

Moreover, the gravity of the robbery offense was a proper factor for the court to consider at disposition. (Welf. & Inst. Code, § 725.5; *In re Robert H.*, *supra*, 96 Cal.App.4th at p. 1330.) Although appellant complains that the juvenile court engaged in "speculation" about his role in the crime, the court was entitled to consider appellant's credibility in assessing the veracity of his claim that he did not assault or conspire to rob the victim. (*In re Robert H.*, *supra*, 9 Cal.App.4th at p. 1329 [court may consider minor's credibility and is not required to take all information at face value].) The court found appellant's story "completely ridiculous" and concluded he had a more substantial role in the crime than he admitted. The crime involved several individuals carrying out a planned robbery and vicious assault. The seriousness of this offense supported a more restrictive commitment to a ranch facility such as OAYRF.

The court also expressed concern that appellant had refused to accept responsibility and had protected his cohorts by failing to identify them. Although appellant argues that the court's observations rest on speculation, we conclude the court drew reasonable inferences from the information available to it about appellant's role in the crime. Appellant also makes the remarkable claim that his refusal to name the other individuals involved in the incident "can be seen as a mark of character and courage, rather than a character defect." We reject this attempt to equate the criminal ethos of not being a "snitch" to some higher moral state. The juvenile court was allowed to consider

appellant's failure to identify the other participants in the crime as a factor meriting a more restrictive placement.

The record as a whole establishes that appellant's placement at OAYRF for a nine-month program was in his best interest and the best option for community safety. A review of the dispositional hearing reveals that the court carefully considered the benefits the JUMA program provided to appellant. The court observed that appellant committed the robbery offense after participating in the JUMA program for nearly half a year. One could reasonably conclude that JUMA had not been effective in preventing the behavior that resulted in appellant's wardship. Further, there was no evidence that JUMA, which was described primarily as a "college access program," provided the structured environment and specialized services that appellant required. Under the circumstances, the court was justified in concluding that a ranch commitment would be in appellant's best interests. Accordingly, the court acted well within its discretion in committing appellant to OAYRF.

DISPOSITION

The jurisdictional and dispositional orders are affirmed.

McGuiness, P.J.

We concur:

Pollak, J.

Jenkins, J.